

## **REMARKS**

Applicants respectfully request reconsideration in view of the above amendments and the following remarks. Applicants amend claims 1, 6, 12, 15 and 19. Applicants cancel claims 22-26. Applicants do not add any claims. Accordingly, claims 1-21 remain pending in the application.

### **I. Amendments to the Claims**

Applicants amend claims 1, 6, 12, 15 and 19 to include the limitations of “by storing data for a set of switch points, the data indicating a transition in consecutive segment assignment from the first device to the second device, the third device to identify a switch point from the set of switch points that is associated with an instruction occurring after a mispredicted instruction” or analogous elements. Support for the amendments may be found in the specification at ¶¶ 0025 and 0029. Applicants cancel claims 22-26.

### **II. Claims Rejected Under 35 U.S.C. § 102**

Claims 1-21 stand rejected under 35 USC section §102(e) as being anticipated by U.S. Patent No. 6,807,621 issued to Strombergson et al. (hereinafter “Strombergson”). Applicants respectfully disagree.

To anticipate a claim, a single reference must disclose each element of that claim.

Claims 1, 6, 12, 15 and 19, as amended, include “a third device . . . storing data for a set of switch points, the data indicating a transition in consecutive segment assignment from the first device to the second device, the third device to identify a switch point from the set of switch points that is associated with an instruction occurring after a mispredicted instruction” or analogous elements. Examiner has not relied upon and Applicants have been unable to discern any part of Strombergson that teaches a “third device to identify a switch point from the set of

switch points that is associated with an instruction occurring after a mispredicted instruction” (emphasis added). Thus, Strombergson does not teach each of the elements of these claims.

Further, Applicants respectfully disagree with Examiner’s arguments of the § 103 rejection of cancelled claims 22-26, which included elements similar to those that Applicants have presently added into the independent claims, namely: “a third device . . . storing data for a set of switch points, the data indicating a transition in consecutive segment assignment from the first device to the second device.” Examiner cites Strombergson, at col. 1, lines 26-30, as teaching that “super-scalar processors are also known which comprise multiple pipelines processing instructions simultaneously when adjacent instructions have no data dependencies between them.” (Office Action, p. 11.) Examiner then asserts that:

It follows then, in many processing systems, that these instructions that were intended for a particular execution unit, are transitioned to another execution unit once their data dependencies are evaluated just prior to execution. Strombergson, however, does not particularly disclose this strategy. Examiner takes Official Notice that it is common in the art to transition an instruction intended for a particular execution unit to a different execution unit as the data dependencies are evaluated. Strombergson would have been motivated to utilize this technique in order to maximize instruction level parallelism making the processing system more efficient in order to optimize the technique described in col 1 lines 26-30.

(Office Action, pp. 11-12.)

Applicants respectfully traverse Examiner’s Official Notice. Under MPEP 2144.03, Official Notice is improper when used as the “principal evidence upon which a rejection [is] based,” and that it “may provide sufficient support for conclusions [only] as to peripheral issues” (MPEP 2144.03(A)). Official Notice should only be taken where the facts are “capable of instant and unquestionable demonstration as being well-known” (MPEP 2144.03(A)) and “[i]f such notice is taken, the basis for such reasoning must be set forth explicitly” (MPEP 2144.03(B)). Applicants submit that Examiner has not so set forth the basis for his assertions that “it is common in the art to transition an instruction intended for a particular execution unit to a

different execution unit as the data dependencies are evaluated.” If Examiner maintains his position as to the Official Notice, Applicants respectfully request that Examiner produce authority in the form of prior art references for the Official Notice taken.

Moreover, Applicants respectfully submit that it is unclear how the many steps of Examiner’s argument lend to a conclusion that it would have been obvious for one of ordinary skill in the art to “stor[e] data for a set of switch points, the data indicating a transition in consecutive segment assignment from the first device to the second device,” as recited in the claims.

Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 1, 6, 12, 15 and 19 are requested.

Claims 2-5, 7-11, 13, 14, 16-18, 20 and 21 depend from independent claims 1, 6, 12, 15 and 19, respectively, and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to the independent claims, these claims are not anticipated by Strombergson. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

## CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If Examiner believes that a telephone conference would be useful in moving the application forward to allowance, Examiner is encouraged to contact the undersigned at (310) 207-3800.

Respectfully submitted,

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Dated:

5/29/07

  
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Amber D. Saunders

Date